

IS THE DEVIL IN THE DETAILS?

Tension Between Minimalism and Comprehensiveness in the Shariah

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ABSTRACT

The comprehensiveness of Islamic law has been questioned seriously in the modern period by Muslim reformists like Rashīd Riḍā. Such reformists have used as evidence Qur'anic verses and Prophetic reports that seem to state clearly that the strictures of Islamic law are few and limited and that Muslims should not extend them to all areas of life. How could the Shariah have developed as a holistic and exhaustive body of law in light of such evidence? Looking back at earlier Muslim scholars from the ninth to the eighteenth centuries, however, we see that these Qur'anic verses and Prophetic edicts were never understood in this way. They were either diffused with various hermeneutic strategies or understood as applying to debates unrelated to the comprehensiveness or minimalism of the Shariah.

KEY WORDS: *hadith, Shariah, al-Bukhārī, al-Dārimī, Shāh Walī Allāh al-Dihlawī, Islamic Modernism*

1. Introduction

Most well-read Americans have heard the truism that Islam is not merely a religion, it is “a way of life.” This observation reflects the comprehensive nature of the Islamic normative system, commonly referred to as the *Shariah* (in English, Islamic law). In their confrontation with modernity, Muslim scholars have been faced with the extremely circumscribed place of religious law in the modern West, where law as such is secular, and ethics stems from basic religious maxims or bodies of secular humanist wisdom (Austin 1995, 20). The sphere of religious law in the modern West was shaped by thinkers like Auguste Comte (d. 1857) and Henri St. Simon (d. 1825), who declared that religion in society must be limited to exhortations to love one's fellow man and that any religious tenet to the contrary was “anathema” (St. Simon 1952, 105). Creatures of a world shaped by such ideas, Western non-Muslims are often startled by the ubiquitous reach of religious law in Muslim life. Unlike Paul's foundational conviction that

the holistic ritual and legal detail of Mosaic law had been encapsulated in the act of loving one's fellow man in Christ, the Islamic tradition followed the course of Judaic legalism.

One of the most pressing questions driving Islamic thought in the modern period has thus been whether the comprehensive nature of Islamic law is, or ever was, appropriate. Should Muslims adhere to the belief that God's will should be known and must be done in every situation, and is that will best known through the Shariah tradition? Or should Muslims follow in the footsteps of Spinoza (d. 1677) and re-envision the Shariah as a law code that served its purpose in pre-modern times but that should now be replaced by Neo-Pauline injunctions toward justice and charity (Spinoza 2007, 179–80)? Or is there some middle ground, an authentic tract of Islamic legal minimalism that can be rediscovered among the precedent treasures of the Islamic intellectual heritage and furnish a vision of religious law both legitimate for believing Muslims and compatible with modern secularism? Several influential Islamic modernists have offered arguments for such an authentic middle ground, citing selections from the Qur'an and the *hadiths* of the Prophet that explicitly justify their program. In this article I will examine their evidence and arguments, asking the question: if there are Qur'anic verses and Prophetic hadiths which seem clearly to envision a minimalist religious law, how did the Shariah historically emerge so predominately as a comprehensive system?

Historically, the comprehensiveness of religious law has rarely been challenged by Muslim scholars. From its origins in the revelation of the Qur'an and the teachings of Muhammad, the historical construct of the Shariah has expanded to subsume essentially every dimension of human life under a five-level categorization (*al-aḥkām al-taklīfīyya*) of required (*wājib*), recommended (*mandūb*), permissible (*mubāḥ*), discouraged (*makrūh*), and forbidden (*ḥarām*). Assigning any action to one of these categories has been the core function of the Muslim jurisprudent (*faqīh*), a figure commonly defined as that individual who "knows the ruling of every action done by a person held accountable by God's law (*ḥukm kull fi'l min af'āl al-mukallaḥ*)" (Sa'īd Fūda, part 1).

Classical Muslim scholars justified the comprehensiveness of Islamic law with Qur'anic verses such as "[i]f you dispute with one another on an issue, bring it before God and the Messenger if you believe in God and the Last Day" (Q. 4:59) and "on whatever you may differ, the verdict thereon rests with God" (42:10), and "[w]hoever does not rule by what God has revealed, he is one of the unbelievers (5:44–47). God's commandments here are understood as being clearly reiterated in Muhammad's precedent. In a famous hadith, the Prophet instructs his Companion Mu'ādh b. Jabal, whom

he has sent to Yemen to instruct new Muslims, to rule on any new issues he might encounter according to (1) the Qur'an, (2) the Prophet's precedent, and (3) his own best judgment based on his sound understanding of Islam.

We have evidence that the comprehensiveness of the Shariah had become axiomatic in Sunni Islam by the end of the eighth century. As the formative architect of the Shāfi'ī school of law, Ibn Surayj (d. 306/918) wrote, "There is nothing on which there is no ruling from God, for He said, may He be glorified, 'Indeed God keeps account of all things' (Q. 4:86)" (al-Zarkashī 2007, 1:129).¹

Knowing these rulings was deemed essential for Muslim life. As the great ninth-century scholar al-Shāfi'ī (d. 204/820) argued, scholars had come to a binding consensus that a Muslim cannot undertake any action potentially subsumed under Islamic law without seeking to know God's ruling on it (in other words, asking a qualified scholar) (al-Zarkashī 2007, 1:133).

The challenge facing Muslims was thus *how* to know the Shariah's ruling on any one question. The sources of the Shariah were the Qur'an and the Sunna of the Prophet, which were mined through various interpretive devices (such as analogical reasoning [*qiyās*]) and built upon notions of communal authority (such as consensus [*ijmā'*] or public interest [*maṣlaḥa mursala*]). The vast number of hadiths and Companion rulings in circulation, when combined with the willingness of Muslim jurists to accept such reports even if their authenticity was dubious, yielded an almost infinite body of legal proof texts. As such, finding some basis for a ruling on any conceivable action has not proven difficult historically for Muslim scholars.

Two axioms of the Islamic normative system in its classical form are thus that it *is* and *should be* comprehensive, and that this comprehensiveness derives both its mandate and substance from revelation. These stances remain integral to common understandings of what it means to be Muslim today. Even a modernist reformer willing to break with centuries of entrenched belief such as the Egyptian Maḥmūd Shaltūt (d. 1963) affirmed the primacy of the Shariah as a universal legal ideal. In one of his *fatwās*, Shaltūt ruled that a judge working in Egypt's new secular national legal system could do so legitimately, although it might be a sin. But to state that Muslims should follow a legal system that ignores the explicit, unwavering edicts of the Qur'an and Sunna was to leave Islam and fall into disbelief (Shaltūt 1983, 45).

¹ See also Roy Mottahedeh's excellent introduction to his translation of Muḥammad Bāqir al-Ṣadr, *Lessons in Islamic Jurisprudence* (Oxford: Oneworld, 2005), 2–3.

Challenges to these axioms have appeared most visibly in the modern period with modernist Salafī scholars such as Rashīd Riḍā (d. 1935) and more radical reformers like ‘Alī ‘Abd al-Rāziq (d. 1966) in the Arab world and Muhammad Aslam Jayrapuri (d. 1955) in South Asia. These influential modernists have questioned the pervasiveness of Islamic law principally by adducing verses of the Qur’an and hadiths that seem on their face to subvert the comprehensive, revelatory mandate of Islamic law. Let us note a few examples. I should say here that I will not question the authenticity of any hadiths discussed here (although some Muslim scholars have) but will instead treat them as organic expressions of the autochthonous early Islamic worldview.

From the Qur’an we have verses such as God stating that the Qur’an is “an elucidation of all things (*tibyān li-kull shay’*)” (16:89) and that “[w]e have not omitted anything from this book” (6:38), both of which suggest that the Qur’an is a sufficient legal document and that anything not explicitly mentioned in the book is to be omitted from legal ruling. We also have the verse “Do not ask about matters that would be of detriment to you if they were made known to you (*lā tas’alū ‘an ašyā’ in tubda lakum tasu’kum*)” (5:101). These verses, especially the first two, were widely cited over a millennium ago by early Muslim rationalists of the eighth century who objected to the use of hadiths in elaborating a comprehensive normative system—they felt that Islamic law should be the product of the Qur’an, communal consensus, and reason alone. This rationalist school of thought, however, died out in Sunni Islam (Brown 2009, 151–52).

In the classical Islamic period, the challenges posed by these Qur’anic verses were easily surmounted. Opposing the Muslim rationalists bitterly, the architects of the nascent Sunni Islam parried these first two verses by arguing that the Qur’an itself orders Muslims to look beyond its pages and follow the Prophet’s precedent. They cited such Qur’anic verses as: “Obey God and obey His Prophet” (4:59); “what the Prophet has commanded you, take it, and what he has prohibited for you, desist” (59:07); and God’s statement that Muhammad was sent to teach “the Book and the Wisdom” (2:151) (the book being the Qur’an, and the Wisdom identified as meaning the Sunna).²

Maintaining the inexhaustibility of the Qur’an was another Sunni response. The Qur’an was “an elucidation of all things” because it was pregnant with legal ramifications that would later be derived by Muslim scholars. The Successor Masrūq (d. circa 63/683) is quoted as

² It is interesting that Muslim scholars and exegetes did not note the use of the Hebrew “*hikma*” in Jewish apocryphal works as being analogous to the Logos, or the manifestation of the divine message in creation. If read along these lines, “the Book and the Wisdom” would be a hendiadys phrase like “the Book and the Word,” since the Qur’an is already understood as God’s Word manifest in creation; see Russell 1986, 83.

saying, “[w]e do not ask the Companions of Muhammad about anything except that knowledge of it is in the Qur’an, but our knowledge falls short of grasping it” (Abū Khaythama 1983, 15). It is commonly attributed to the Prophet’s Companion Ibn ‘Abbās, much revered for his knowledge of the Qur’an, that “all knowledge is in the Qur’an, but men’s minds have been unable to grasp it.” Ja‘far al-Sādiq (d. 148/765), one of the twelve imams of Imāmī Shiism but also a respected teacher of Sunnis like Abū Ḥanīfa, had made the same statement. The Quran contains the answers to all questions, he said, “but men’s minds cannot grasp them” (al-Kulaynī 1995, 158–60). The third verse, on asking about things that may do harm, we will discuss below.

Apparent Qur’anic challenges to the comprehensiveness of Islamic law were thus easily defused, primarily because the holy book was so freely interpreted and could thus be read as advocating a holistic law. In addition, early Sunnis persistently affirmed that the Sunna of the Prophet, as communicated through hadiths and the ways of the early Muslim community, “ruled over the Book of God” and explained it (al-Marwazī 2001, 106–7). As shown in hadiths like that of Mu‘adh b. Jabal, the Sunna was understood as directing Muslims toward a comprehensive normative system.

But there were also many apparently subversive hadiths, and they were on their face much more explicitly problematic than the Qur’anic verses cited above. Moreover, they formed part of the authoritative Sunna that Muslim scholars were compelled to heed. For example:

- The Prophet said, “Indeed the greatest crime for a Muslim is to ask about an issue that had not been forbidden and then it is forbidden because he asked about it” (for our purposes, we will call this the **Hadith of the Greatest Crime**) (*Ṣaḥīḥ al-Bukhārī: kitāb al-i’tiṣām, bāb mā yukrahu min kathrat al-su’āl*).
- The Prophet said, “What God has prohibited in His Book, it is forbidden, and what He has allowed in His Book is allowed. And what He has not mentioned is clemency, so accept the clemency of your Lord” (henceforth the **Hadith of Clemency**) (al-Ḥākim 1917–25, 2:375).
- The Prophet said, “Leave me be as long as I’ve left you [with no orders], for indeed the people before you perished due to their questions and disagreements over their prophets. So if I’ve forbidden you from something then avoid it, and if I’ve ordained something for you then do of it what you are able” (henceforth the **Hadith of Perishing**) (*Ṣaḥīḥ al-Bukhārī: kitāb al-i’tiṣām, bāb al-iqtidā’ bi-sunan Rasūl Allāh*).
- Finally the Prophet said, “What is permitted is clear, and what is forbidden is clear, and what is between those two are ambiguous

matters³ (henceforth the **Hadith of Ambiguous Things**) (*Sunan Abī Dāwūd: kitāb al-buyūʿ, bāb ijtināb al-shubuhāt*).

2. Islamic Modernists Against the Comprehensive Mandate

A number of prominent nineteenth- and twentieth-century Muslim scholars influenced by Western historical criticism of hadiths and fears about the backwardness of Islamic law argued that Islamic law was intended to be both minimalist and based on reason, not hadiths. In South Asia, a number of such scholars organized themselves into the *Ahl-e Qurʿan* (People of the Qurʿan) movement. One of the group’s leading spokesmen, Ahmad Din Amritsari (d. 1936), began by arguing that most of Islamic law, on issues such as prayer and inheritance, could be derived from the Qurʿan alone. The next generation of Indian Qurʿan-only scholars went further and rejected the comprehensiveness of the Shariah altogether. Mistri Muhammad Ramadan (d. 1940) argued that God had never intended Islamic law to be fixed or all-encompassing. The Muslim community was supposed to use the principles laid out in the Qurʿan and their own reason to determine how to live according to God’s will as new eras successively dawned. This Qurʿan-only movement enjoyed little success in the Arab world. But as one of its few advocates, the Egyptian doctor Muḥammad Tawfiq Ṣidqī (d. 1920), explained, “the Sunna was given to the Arabs [of the Prophet’s generation]” and was not meant for application after them (Brown 2009, 243–51).

For Islamic modernists questioning or attacking the comprehensive mandate of Islamic law, the subversive hadiths listed above have provided the most effective ammunition. They were all used as fodder in the Islamic modernist campaign against Sunni orthodoxy, especially in the Arab world. The author of the most controversial and trenchant criticism of Sunni hadiths ever written, the Egyptian Maḥmūd Abū Rayya (d. 1970), used them to argue that all hadiths that are not massively transmitted (*mutawātir*) and agreed on by all Muslims as authentic are really not part of the Sunna at all. The Prophet’s precedent instead consists only of the agreed upon elements of the Muslim legal tradition. Hadiths that are not as massively transmitted as this “practiced Sunna (*sunan ʿamaliyya*)” can be followed by those who wish, but they cannot be considered in lawmaking for the community (*tashrīʿ amm*) (Abū Rayya 1958, 342–43, 350–51).

³ This is one of the four hadiths that Abū Dāwūd said would suffice the Muslims (Ibn al-Jawzī 1992, 12:269).

Abū Rayya's mentor, the über-influential Modernist Salafī Rashīd Riḍā (d. 1935), from whose works Abū Rayya drew the subversive hadiths, had never gone as far as his prodigal student. In his less iconoclastic efforts to circumscribe what seemed the more archaic or pedantic details of Islamic law, Riḍā returned to a concept first articulated by the seminal ninth-century jurist al-Shāfi'ī. He had distinguished between "The Knowledge of the Masses (*ilm al-āmma*)," namely the clear indications of the Qur'an and widely-known hadiths, and the "Knowledge of the Elect (*ilm al-khāṣṣa*)," or the questions discussed and widely disagreed upon by Muslim scholars. Al-Shāfi'ī stated that the Knowledge of the Masses was immediately incumbent upon all Muslims, while only scholars were supposed to debate and develop the Knowledge of the Elect, which they would then promulgate among the masses.

Riḍā transforms (and, I think, misrepresents) this division drastically. Instead of accepting that the Knowledge of the Elect, although only probabilistic, was still eminently obligatory for Muslims to follow once it was digested and presented by scholars, he argued that classical Muslim scholars "did not consider their efforts to derive law (*ijtihād*) to be general law incumbent upon the Muslim community" (Ibn Qudāma 1983, 1:23). It was modern Muslims who had fundamentally misunderstood the nature of Islamic substantive law (*fiqh*), Riḍā contends, "taking everything in books of *fiqh* to be part of the religion and the laws of God that He addressed to His servants." Employing the Hadith of Perishing and the Qur'anic verse warning against asking about things that could harm you, Riḍā explains that most of the hadiths that are used as proof texts by the different Islamic schools of law were never widely transmitted or agreed upon, and many only appeared when a scholar was asked about an issue. "And perhaps if he had not been asked there would have been flexibility (*si'a*) on that issue on the basis of the person's own judgment (*ijtihād*), and that would have been better for him and others" (Ibn Qudāma 1983, 1:18).

Riḍā also uses the Hadiths of Clemency and of Ambiguous Things to argue that covering the face is not required for women since there is no explicit legal text on the issue. Blocking the means (*sadd al-dharā'i'*) arguments that covering the face should be required for women to prevent inappropriate attraction between unmarried couples, Riḍā argues, are not convincing. He says the Hadith of Clemency serves as a "general principle (*qā'ida āmma*)" and that the Hadith of Ambiguous Things establishes that observance on ambiguous matters is a question of personal choice. In a rhetorical argument that such caution in veiling is fruitless, he notes how Bedouins and farmer women do not cover their faces and yet "fall into temptation less than city folk" (Riḍā 1975, 185–87).

3. The *Ahl al-Ḥadīth*: The Early Sunnis

The subversive hadiths and the manner in which they were understood by these modernists indeed seem to call into serious doubt the comprehensive mandate of Islamic law. So had earlier Sunni scholars simply missed or ignored them? Quite to the contrary, these supposedly subversive hadiths, as well as similar hadiths and Companion or Successor reports, feature prominently in *Ahl al-Ḥadīth* (i.e., early Sunni) discussions of the importance of following the Sunna and rejecting the use of independent legal reasoning (*ra'y*) in lieu of a revealed text from the Qur'an or Sunna. These early Sunni scholars, in fact, interpreted these hadiths as being not at all subversive in this context. Rather, these hadiths drive and justify the early Sunni arguments against their opponents from among those scholars more comfortable with independent legal reasoning (the *Ahl al-Ra'y*). From the point of view of modern skeptics of the authenticity of the hadith corpus, it may have been for this purpose that these hadiths were forged in the first place.

Here we will examine the works of two prominent members of the *Ahl al-Ḥadīth* movement, 'Abdallāh b. 'Abd al-Raḥmān al-Dārimī (d. 255/869) and Muḥammad b. Ismā'īl al-Bukhārī (d. 256/870). The *Sunan* of al-Dārimī and revered *Ṣaḥīḥ* of al-Bukhārī are not merely collections of hadiths; they are polemical expressions of their authors' legal and theological worldviews. As such, we can determine what message they hoped to send with the subversive hadiths.

Al-Bukhārī invokes these hadiths in a chapter of his *Ṣaḥīḥ* that is tantamount to a discussion of his legal theory, the Book of Clinging to the Qur'an and Sunna (*Kitāb al-i'tiṣām bi'l-kitāb wa al-sunna*). In his subchapter on following the Sunna of the Prophet, he includes the Hadith of Perishing, which he introduces with the context that the Prophet announced after an eclipse that "[t]here is nothing that I did not see that I have not [now] seen in my station [his pulpit], even heaven and hell." The Prophet then describes the trial of the grave, in which the believers and unbelievers are rewarded or punished while entombed before resurrection. Reading this, one gleans a lesson: the Prophet has been told everything by God, so if he decides to omit a matter or leave it undiscussed, then one should not ask about it. This was, in fact, the cause of earlier religious communities going astray. Of course, here the focus of the hadith is much more theological than legal (*Ṣaḥīḥ al-Bukhārī: kitāb al-i'tiṣām, bāb 3*).

This subchapter is immediately followed by one on "[w]hat is discouraged from asking many questions and overly concerning oneself with things that do not concern one, specifically explaining the Qur'anic verse 'Do not ask about things that if they were made known

to you might be detrimental to you.” This subchapter centers on the Hadith of the Greatest Crime, followed by a hadith in which the people want the Prophet to come out at night and pray with them during Ramadan. The Prophet tells them, however, to pray at home, for he did not want it understood that more mandatory prayers had been prescribed for them. Then again we find the hadith of the Prophet mounting the pulpit after the eclipse and telling his Companions to ask him about any issue, “For, by God, you will not ask me about anything except that I will inform you of it as long as I am here in this station.” One person asks what his fate will be, and the Prophet tells him Hell. The Companion ‘Abdallāh, the son of Ḥudhāfa, asks who his father is, and the Prophet tells him Ḥudhāfa. The Prophet keeps answering questions until finally the future caliph ‘Umar perspicaciously falls to his knees and cries, “We are content with Islam as our faith and Muḥammad as our prophet!” It would seem that ‘Umar had understood that, like Oedipus, inquiring too far into matters of destiny can be terrifying (*Ṣaḥīḥ al-Bukhārī: kitāb al-i’tiṣām, bāb 4*).

The next hadith foretells that people will continue asking unnecessary questions until someone asks “Who created God?”—a sure sign that theological speculation has led people astray. The chapter ends with reference to the question with which the Jews tested Muhammad and to which the Qur’an replied that the answer was known to God alone: what is the nature of the soul?

This subchapter thus condemns asking about matters that are of no consequence or only of God’s ken. It also warns people not to push to have their duties extended but to be content with what they are commanded to do by the Prophet (*Ṣaḥīḥ al-Bukhārī: kitāb al-i’tiṣām, bāb 4*). A later subchapter warning against extremism (*ghulūww*) in religion also includes a hadith reprimanding people for trying to be more ascetic than the Prophet (*Ṣaḥīḥ al-Bukhārī: kitāb al-i’tiṣām, bāb 6*).

In general, al-Bukhārī thus seems to condemn asking about matters of no real consequence, questions whose answers might be unnecessarily harmful (for example, who is my father?), or which can only be known to God (such as the nature of the soul). Most crucially, this chapter condemns a wedge issue in the heated debate between the early Sunnis and the *Ahl al-Ra’y*: hypothetical legal discussions. The early Sunnis squarely rejected it, while Abū Ḥanīfa (d. 150/767) and his *Ahl al-Ra’y* students engaged in hypotheticals.

Although it does not feature any of the subversive hadiths noted above, al-Dārimī’s *Sunan* includes many similar Companion opinions and emphasizes many of the same themes, with chapters like “Being Wary of Responding on Issues not Covered by the Qur’an or Sunna.” Although al-Dārimī dutifully includes many hadiths and reports of

early Muslim scholars condemning unrestricted legal reasoning (*ra'y*), he does include reports on how the scholars and pious people of the Companion generation would gather and give their opinions on issues that the Qur'an and Sunna had not addressed. When they came to consensus, "the truth was in what they concluded." But these were matters that had actually arisen amongst the Muslims, not hypothetical *fiqh*. Here we see the theme of discouraging questions that are either not germane or are theoretical in nature. Al-Qāsim b. Muḥammad (d. 108/726–27), the grandson of the caliph Abū Bakr and a leading jurist of his day in Medina, tells the Muslims,

Indeed you ask about things we never asked about, digging around in things we never dug around in. You ask about things we know nothing of, and if we knew about them it would not be permitted for us to conceal our knowledge [*Sunan al-Dārimī*: introduction, *bāb al-tawarru' 'an al-jawāb fīmā laysa fihi kitāb wa lā sunna*].

Al-Dārimī warns of the dangers of seeking legal rulings without the proper intentions or treating religious law as a game. He refers several times to an incident in which a man came to the Companion Ibn Mas'ūd to ask about divorcing his wife, having said the divorce phrase an astounding eighty or one hundred times (the appropriate number of times is three), to which Ibn Mas'ūd replies, "Whoever divorces his wife as God commanded, God has made the divorce clear. But whoever deludes himself and all of us by his matter, God obscures the matter. By God, do not delude yourselves, since we might understand the matter as you [falsely] describe it" (*Sunan al-Dārimī*: introduction, *bāb al-tawarru' 'an al-jawāb*).

Like the Hadith of Perishing, this speculation is associated with the People of the Book. Al-Dārimī ends the chapter with a report on how the Children of Israel went astray when they married foreign women, who started talking about *ra'y*. Another chapter deals with the "Rejection of Hypothetical *Fiqh* (*bāb karāhiyyat al-futyā*)," in which Ibn 'Abbās is reported to have said that the Companions had never asked about anything more than thirteen issues, all noted in the Quran, adding "[t]hey only asked about what benefited them" (*Sunan al-Dārimī*: introduction, *bāb karāhiyyat al-futyā*).

The chapter discouraging hypothetical legal discourse ends with a fascinating report. When an early Muslim worries that knowledge (*ilm*) will be lost, a scholar replies, "[k]nowledge will not vanish as long as the Qur'an is read, rather, say that *fiqh* will vanish" (*Sunan al-Dārimī*: introduction, *bāb karāhiyyat al-futyā*). This notion of distinguishing between revealed knowledge, found in the Qur'an (and the Sunna), and the human attempt to understand and apply that knowledge to new questions (*fiqh*) is crucial. We see it as a central theme in

the division between the Knowledge of the Masses and that of the Elect developed by al-Shāfi‘ī, a scholar who inspired both al-Bukhārī and al-Dārimī.

For the early Sunnis, then, what we have called these subversive hadiths or Qur’anic verses are not actually subversive at all. Rather, they are understood as condemning the senseless theological speculation that had led earlier People of the Book astray, and as rejecting hypothetical *fiqh* that does not stem from a sincere desire to understand God’s will. Scholars truly committed to following God’s law look to the Qur’an, Sunna, and one another for guidance, but their knowledge is only *fiqh*, not revealed knowledge (*‘ilm*). As both al-Bukhārī’s and al-Dārimī’s chapters emphasize again and again, scholars should not rule on issues they do not have an answer for derived from revealed sources. Al-Bukhārī explains that not even the Prophet would answer questions until he had received revelation (*Ṣaḥīḥ al-Bukhārī: kitāb al-i’tisām bāb 9*).

4. The Ḥanafī School

The Ḥanafī scholar of Egypt, Abū Ja‘far al-Ṭaḥāwī (d. 321/933), takes a different approach to these subversive hadiths. He acknowledges that they are problematic. In a series of chapters devoted solely to understanding these hadiths in his *Sharḥ Mushkil al-āthār* (Commentary on Difficult Reports), he begins with the Hadith of Ambiguous Things. He explains it by citing a version of the hadith with an added segment, namely that these ambiguous matters are “unknown to many people,” and whoever “avoids them is more likely to avoid the forbidden.”⁴ In other words, the hadith does not say that what is not clearly forbidden is ambiguous in terms of it not being appropriate ground for more legal rulings. Rather, it means that it is dangerous territory, a slippery slope that could lead to the forbidden. These subversive hadiths, he explains, allude to the unambiguous and ambiguous (*mutashābih*) rules laid out in the Qur’an and the Sunna, the clear of which are clear and the ambiguous of which require “their truths to be sought.” These latter ones are not only disagreed on, they are also subject to the level of pious caution (*wara‘*) of individuals, some of whom will refrain from such ambiguous things and others of whom will not. When he is asked if that means that judges (*ḥukkām*) should *not* rule on such ambiguous actions he says, no, they should do their best and follow their best interpretation (*ijtihād*) as the Prophet instructed them in hadiths like that of Mu‘ādh (al-Ṭaḥāwī 1987, 2:219–21).

⁴ It must be noted that this expanded version is considered by Muslim scholars to be as authentic as the version listed above, being found in *Ṣaḥīḥ al-Bukhārī: kitāb al-īmān, bāb faḍl man istabra’a li-dīnihi*.

For al-Ṭaḥāwī, then, these problematic hadiths are easily explained as allusions to either supererogatory piety or slippery slope reasoning in law. They are still subject to legal derivation and rulings by Shariah judges. The Shariah still remains comprehensive.⁵

5. Early Modern Analysis: Shāh Walī Allāh

Jumping forward to the early modern period, we find another answer in the luminous writing of Shāh Walī Allāh al-Dihlawī (d. 1762) of Delhi. In his *al-Insāf fī bayān asbāb al-ikhtilāf* (The Fair Treatise on Demonstrating the Causes of Disagreement in Law), he reconstructs the early period of Islamic thought chiefly through reports taken from al-Dārimī's *Sunan*. For Shāh Walī Allāh, there is no debate over whether minimalism or comprehensiveness is correct—the latter clearly is. He sees any tension on this issue as the product of different historical contexts, specifically the opposing approaches of the *Ahl al-Ḥadīth* and the *Ahl al-Ra'y* in the early Islamic period. These subversive hadiths illustrate a difference in temperaments that would manifest itself among the different generations of Muslims, temperaments that would eventually develop into different schools of thought.

Referring to the report that the Companions had only asked the Prophet about thirteen issues, Shāh Walī Allāh explains that the Companions were exceedingly minimalist in their approach to religion. They simply observed the Prophet and imitated him. His conduct provided all the answers they required. In the following generations, the *Ahl al-Ḥadīth* emerged with their commitment to adhering closely to the revealed texts of the Qur'an and Sunna. This resulted in theoretical minimalism, with the *Ahl al-Ḥadīth* only acting on what the Prophet had clearly ruled and remaining silent on new issues. In the first century and a half of Islam the hadith corpus was highly localized, with scholars in Kufa or Medina operating with different and incomplete bodies of Prophetic traditions. But in the late 700s and early 800s CE hadith scholars like 'Abd al-Raḥmān b. Maḥdī (d. 197/814) and Ibn Ḥanbal (d. 241/855) traveled widely, collecting hadiths from areas as far flung as Khurasan and Yemen. As the corpus of hadiths was unified and a massive wealth of hadiths became available, these countless reports provided the proof texts for a comprehensive range of law among the *Ahl al-Ḥadīth* (Dihlawī 1983, 53–54).

The *Ahl al-Ra'y*, on the other hand, were from the beginning comprehensive and exhaustive in their vision of law and indulgence

⁵ For a similar treatment from a Shāfi'ī scholar of the tenth century, see al-Khaṭṭabī 1981, 3:56–57.

of hypothetical situations. But they never misconstrued their rulings as based solidly on revelation. As Shāh Walī Allāh describes, they felt that “the religion was built on *fiqh*.” Later, these scholars, especially ones skilled in hadith like al-Ṭaḥāwī, found hadiths to back up this detailed law that they had derived with reason (Dihlawī 1983, 57). In the end, both the *Ahl al-Ḥadīth* and *Ahl al-Ra’y* schools produced comprehensive law codes without departing from their principles.

6. Conclusion

Read on their own, what we have termed the “subversive” hadiths and Qur’anic verses would seem unmistakably to undermine or at least to rein in the comprehensive mandate of Islamic law. This was certainly how Islamic modernists like Rashīd Riḍā and Maḥmūd Abū Rayya used them. It is therefore fascinating that (with the exception of a few early Muslim rationalists referring to some of the Qur’anic verses listed above) the first critical hay made of these hadiths comes in the modern period. How could Muslim scholars of the classical or later medieval periods have missed what modern reformists see as unmistakable indictments of overly comprehensive lawmaking?

Earlier scholars faced with these hadiths but invested in the comprehensive character of Islamic law, such as al-Ṭaḥāwī and Shāh Walī Allāh, simply used either alternative versions of the hadiths or nuanced historical frameworks to explain them away. Far from finding any subversive challenge in these hadiths, scholars from the foundational period of Sunni Islam, such as al-Bukhārī and al-Dārimī, understood these hadiths as crucial evidence for articulating major Sunni tenets. They used these hadiths and some of the Qur’anic verses as important evidence in debates about the proper sources for Islamic law, with no thought to debating whether or not it should be comprehensive.

While Islamic modernists like Riḍā and Abū Rayya certainly deserve credit for creatively identifying hadiths that supported their more circumscribed vision of Islamic law, their use of these hadiths would never have convinced earlier Sunnis. Nor have they convinced traditional Muslim scholars today who look to the historically contiguous heritage of Sunni thought as the proper source for understanding Islam. Sunni Muslims long ago developed interpretive schemata for dealing with these hadiths. They may have even forged them to serve their own purposes at the time. In the end, even for reformists like Riḍā fluent in the language of classical Islamic thought, one cannot argue with a tradition while standing on top of it.

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